IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 16279 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

LADHABHAI DEVJI KAROTRA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 16279 of 2003

MR DA BAMBHANIA for Petitioner No. 1-2

MR S.N. SHELAT, A.G. with MS MAITHILI MEHTA, A.G.P. for Respondent No. 1

NOTICE SERVED for Respondent No. 1-2

MR JASWANT K SHAH for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE A.R.DAVE

Date of decision: 15/07/2004

ORAL JUDGEMENT

1. RULE. Service of rule is waived by learned A.G.P Ms. Maithili Mehta for respondent no. 1, and by learned advocate Shri Jaswant Shah for respondent no.2. At the request of the learned advocates, the petition is finally heard today.

2. The petitioners are owners of land bearing Survey No. 1013 admeasuring 432.81 sq meters situated at village Rapar on which residential premises bearing Municipal House no. 28/140 is situated.

3. The apprehension of the petitioners is that possession of the said property might be taken by respondent no.2 without following any legal procedure.

4. In pursuance of notice issued by this Court, an affidavit-in reply has been filed by respondent no.2 stating that the procedure prescribed under the provisions of Section 20 of the Gujarat Town Planning and Urban Development Act, 1976 has been followed by respondent no. 2 and notifications under Sections 4 & 6 of the Land Acquisition Act, 1894 have already been issued for acquisition of the land in question.

5. It has been submitted by learned advocate Shri J.K. Shah appearing for respondent no.2 that possession of the property referred to hereinabove shall not be taken by the government authorities except in accordance with law. In view of the above assurance given to the petitioners in the affidavit-in reply filed on behalf of the respondent no. 2, the grievance ventilated in the petition would not survive.

6. In view of the above statement made by respondent no. 2, it is directed that possession of the land in question shall not be taken except in accordance with law.

7. In view of the above direction, the petition stands disposed of as allowed. Rule is made absolute with no order as to costs.

(A.R. DAVE, J.)

siji